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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 ENPAC, LLC,

9 Plaintiff,

10 v.

11 CHASSIDY F. LUCAS and CB
12 STORMWATER¹,

13 Defendants.

CASE NO. C11-37BHS

ORDER GRANTING
STORMWATER'S MOTION
TO SET ASIDE DEFAULT
AND DENYING PLAINTIFF'S
MOTION FOR JUDGMENT
BY DEFAULT AS TO CB
STORMWATER

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16 This matter comes before the Court on Defendant CB Stormwater's
17 ("Stormwater") motion to set aside default (Dkt. 40) and on Plaintiff Enpac, LLC's
18 ("Enpac") motion for judgment by default (Dkt. 33). The Court has reviewed the briefs
19 filed in support of and in opposition to the motions and the remainder of the file and
20 hereby grants the motion to set aside default and denies Enpac's motion as to Stormwater
21 for the reasons stated herein.

22 **I. PROCEDURAL HISTORY**

23 On May 31, 2011, Stormwater filed a motion to set aside default (Dkt. 40). On
24 June 1, 2011, the Court granted Defendants' motion to set aside default as to Lucas. Dkt.
25 38. On June 8, 2011, Defendants filed a notice of appearance on behalf of Stormwater.
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28 ¹ While the motion was originally filed on behalf of CB Stormwater LLC, CB
Stormwater has reorganized as a sole proprietorship.

1 Dkt. 41. For a more detailed discussion of the procedural history see the Court’s prior
2 order. Dkt. 38.

3 II. DISCUSSION

4 A. Motion To Set Aside Default

5 1. Standing

6 A business entity, except a sole proprietorship, must be represented by counsel.
7 Local Rules W.D. Wash. GR 2(g)(4)(b); *see also Rowland v. California Men’s Colony,*
8 *Unit II Men’s Advisory Council*, 506 U.S. 194, 202 (1993)(holding that artificial entities
9 such as corporations, partnerships or associations may appear in the federal courts only
10 through licensed counsel).

11 Here, in order to comply with this rule, Defendants filed a notice of appearance on
12 behalf of Stormwater and indicated that the business is now registered as a sole
13 proprietorship. Dkt. 41. Therefore, according to Local General Rule 2(g), Stormwater
14 may proceed pro se, and the Court will now consider its motion to set aside default. Dkt.
15 40.

16 2. Rule 55(c) Analysis

17 An entry of default may be set aside for good cause. Fed. R. Civ. P. 55 (c). “To
18 determine good cause, a court must ‘consider three factors: (1) whether the party seeking
19 to set aside the default engaged in culpable conduct that led to the default; (2) whether it
20 had no meritorious defense; or (3) whether reopening the default judgment would
21 prejudice’ the other party.” *Id.* at 1091 (quoting *Franchise Holding II v. Huntington*
22 *Rests. Group, Inc.*, 375 F.3d 922, 925-26 (9th Cir. 2004)).

23 As Stormwater is proceeding pro se, the Court may now consider its motion to set
24 aside default (Dkt. 40) and Enpac’s motion for default judgment (Dkt. 33) as it pertains to
25 Stormwater. Accordingly, for the reasons set out in its prior order, the Court finds that all
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1 three factors in the “good cause” analysis for setting aside a default under Rule 55(c)
2 equally favor Stormwater. See Dkt. 38 at 3-6.

3 **B. Motion for Judgment by Default**

4 Judgment by default is appropriate only in extreme circumstances because a case
5 should, whenever possible, be decided on the merits. *United States v. Signed Personal*
6 *Check No. 730 of Yubran S. Mesle*, 615 F.3d 1085, 1089 (9th Cir. 2010).

7 Because the Court has set aside the default as to Stormwater, granting judgment
8 by default would be improper. Therefore, the Court concludes that the motion for default
9 judgment as to Stormwater should be denied.

10 **III. ORDER**

11 Therefore, it is hereby **ORDERED** that:

12 (1) Stormwater’s motion to set aside the default (Dkt. 40) against it is

13 **GRANTED**; and

14 (2) Enpac’s motion for default judgment (Dkt. 33) is **DENIED** without
15 prejudice as to Stormwater.

16 DATED this 30th day of June, 2011.

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20 BENJAMIN H. SETTLE
21 United States District Judge
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